

Casiano N. Alforque
P.O. Box 84564
San Diego, Calif. 92138
619-952-6586

FILED

2008 APR -3 PM 2:28

U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

United State District Court of California
Southern District Court

BY CNA DEPUTY

Case No. 08 CV 0613 WQH WMC

Casiano N. Alforque,
Plaintiff

Complaint

vs.

Martin County, Texas,
Defendants

And Now Comes the Plaintiff in the above matter, Casiano N. Alforque, plaintiff resides in the County of San Diego, California. This matter has jurisdiction in the above court under the basis of Diversity as the defendant is located in Martin County, Texas, outside of the State of California, whereby the plaintiff cannot effectively try his case in any other venue.

The Plaintiff alleges the following allegations as the cause of his complaint against the defendant.

Plaintiff was stopped by a Texas state trooper in the year 2005 on his way back to California on state highway 20 inside Martin County. He was told by the trooper that he'd been spotted, about a mile back, swaying back and then forth over the divided highway line, as if to be drunk or falling asleep.

CC

Searching the glove box of the vehicle plaintiff was operating, the trooper discovered a prescription bottle of the drug Lortab, 8 pills of Lortab exactly, and a prescription bottle of Penecillin, an antibiotic, 11 pills in total.

After determining that the drugs were in fact what plaintiffs wife and plaintiff already professed them to be, Lortab and Penicillin, the troopers placed plaintiff under arrest, at that point the plaintiff stated to them that he possessed valid prescriptions for both the Lortab and the Antibiotic, he proceeded to explain that he'd underwent surgery on the left wrist and both drugs were prescribed to him by his physician, they did not investigate the plaintiffs assertions, the troopers didn't even allow plaintiff or plaintiffs wife to go into the trunk to get into their brief case to retrieve the prescription and did not even look to verify, on the prescription bottle, that the prescriptions where in fact prescribed to the plaintiff. Martin County asserts that the charge, possession of controlled substances, are formidable and wish to prosecute plaintiff under evidence which was illegally and unjustifiably obtained and being used against the plaintiff.

A seizure under the Fourth Amendment must be objectively reasonable in light of the particular circumstances of the case. *Maryland v. Wilson*, 519 U.S. 408, 411 (1997); *Terry v. Ohio*, 392 U.S. 1, 21-22 (1968). Whether a stop is reasonable depends on "a balance between the public interest and the individual's right to personal security free from arbitrary interference by law enforcement." *Wilson*, 519 U.S. at 411; *Prouse*, 440 U.S. at 654-55; *United States v. Brignoni-Ponce*, 422 U.S. 873, 878 (1975). A seizure based on reasonable suspicion or probable cause will generally be reasonable. *Whren v. United States*, 517 U.S. 806, 818 (1996); *Terry*, 392 U.S. at 21-23. But, even without reasonable suspicion or probable cause that an offense has been committed, a police officer may reasonably seize an individual through the exercise of his community caretaking function. *Wright v. State*, 7 S.W.3d at 151-52; see also *United States v. King*, 990 F.2d 1552, 1560 (10th Cir. 1993);

Court has characterized a police officer's job as encompassing a community caretaking function.
Cady v. Dombrowski, 413 U.S. 433, 441 (1973); Wright, 7 S.W.3d at 151. As part of an officer's duty to
"serve and protect," an officer "may stop and assist an individual whom a reasonable person, given the
totality of the circumstances, would believe is in need of help." Wright, 7 S.W.3d at 151 (emphasis added).
Once it is determined that an officer is primarily motivated by his community caretaking function,
it must then be determined whether the officer's belief that the defendant needs help is reasonable. Wright,
7 S.W.3d at 151-52.

"Its apparent, whenever the challenged seizure or search is permitted without probable cause
because of the special purpose being served, plaintiff 's cause stems from a Fourth Amendment violation,
and prepossess to prove this by showing the action was in fact undertaken for some other purpose and
thereby plaintiffs rights where violated.

Plaintiff purports that this matter does not go without some irony, he makes this observation. If the troopers had stopped the grandparents of someone and found the same prescription medicine inside the glove box of these grandparents would the troopers have treated them exactly the same way they treated the plaintiff? I would strongly think that it would not have been the case, yet it is almost solely because the plaintiff is African American and is between 20 and 35 that the troopers treated him in the discriminative manner that they did. I fact, the troopers were exhibiting an extreme instance of Racial Profiling which the plaintiff will prove.

Summary:

Plaintiff is requesting that any and all evidence Martin County may possess be suppressed pertaining to this matter which may circumvent the County of Martin in its ability to dismiss any and all of Martins County's pending cases it may have regarding this matter, as pertains to plaintiff, without prejudice immediately. Furthermore, the plaintiff request that the County of Martin be held monetarily accountable to the plaintiff

in the amount of \$500.000.00 for loss of income and mental anguish caused by the ramifications of the charges which were falsely brought against him. His loss of wages over the past three years, his insurmountable bills which have accumulated due to his inability to practice his trade, and his loss of his licenses in the field of Real Estate which amount to thousands of dollars in revenues lost over the past two years. When reviewing a motion to suppress, we give great deference to a trial court's determination of historical fact. Guzman v. State, 955 S.W.2d 85, 89 (Tex. Crim. App. 1997). When the trial court does not file findings of fact, we assume that the trial court made implicit findings that support its ruling, so long as those implied findings are supported by the record. State v. Ross, 32 S.W.3d 853, 855 (Tex. Crim. App. 2000). We will review de novo mixed questions of law and fact that do not turn on the credibility and demeanor of a witness. Guzman, 955 S.W.2d at 89. We examine the evidence in the light most favorable to the trial court's ruling. Ross, 32 S.W.3d at 855.

Signed,



Casiano N. Alforque,

Plaintiff.

04-03-08

CIVIL COVERSHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

CASIANDO N. AIFORQUE

(b) County of Residence of First Listed Plaintiff San Diego, CA
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

PRO 35
PO Box 84564 San Diego CA 92138

DEFENDANTS

MARTIN COUNTY TEXAS LED

TEXAS STATE FARMERS

County of Residence of First Listed Defendant MARTIN PTXAS

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED, THE DISTRICT OF CALIFORNIA

Attorneys (If Known).

'08 CV 0613 WUH WMC

UNKNOWN

WUH

DEPUTY

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

1 U.S. Government Plaintiff 3 Federal Question (U.S. Government Not a Party)

2 U.S. Government Defendant 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Citizen of This State	<input checked="" type="checkbox"/> PTF	<input type="checkbox"/> DEF	Citizen of Another State	<input type="checkbox"/> PTF	<input checked="" type="checkbox"/> DEF
	X	1		2	2
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury - Product Liability	PROPERTY RIGHTS	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine Product Liability	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	SOCIAL SECURITY	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 861 HIA (1395I)	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 390 Other Personal Injury	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 400 Other Fraud	<input type="checkbox"/> 863 DIWC/DIW (405(g))	<input type="checkbox"/> 850 Securities/Commodities Exchange
<input type="checkbox"/> 195 Contract Product Liability		<input type="checkbox"/> 410 Agriculture	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 196 Franchise		<input type="checkbox"/> 420 Other Food & Drug	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY	CIVIL RIGHTS	<input type="checkbox"/> 430 Drug Related Seizure of Property 21 USC 881	FEDERAL TAX SUITS	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 435 Personal Injury - Product Liability	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 892 Economic Stabilization Act
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 440 R.R. & Truck	<input type="checkbox"/> 871 IRS—Third Party	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 450 Airline Regs.	<input type="checkbox"/> 26 USC 7609	<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 460 Occupational Safety/Health		<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 470 Railway Labor Act		<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	<input type="checkbox"/> 480 Other Labor Litigation		<input type="checkbox"/> 950 Constitutionality of State Statutes
	<input checked="" type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 490 Other		

V. ORIGIN (Place an "X" in One Box Only)

1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from another district (specify) 6 Multidistrict Litigation 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 42 U.S.C. § 878 BRIGENONE - PRINCE - US 18 USC 41

Brief description of cause:

ARBITRARY GOVERNMENT INTERFERENCE OUTWEIGHED COMMUNITY CARETAKING

VII. REQUESTED IN COMPLAINT:

 CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23DEMAND \$ 500,000.00 CHECK YES only if demanded in complaint:JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

04-3-08

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFFP

JUDGE

MAG. JUDGE

18P